

The Honorable Edward F. Shea

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SARAH BRADBURN, PEARL
CHERRINGTON, CHARLES
HEINLEN, and the SECOND
AMENDMENT FOUNDATION,

Plaintiffs,

V.

**NORTH CENTRAL REGIONAL
LIBRARY DISTRICT.**

Defendant

No. CV-06-327-EFS

**PLAINTIFFS' WITNESS AND
EXHIBIT LIST**

Pursuant to this Court's November 6, 2007 Scheduling Order, Plaintiffs submit their Witness and Exhibit List.

PLAINTIFFS' WITNESS AND
EXHIBIT LIST - 1

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PLAINTIFFS' WITNESS LIST

1. Plaintiff Sarah Bradburn

Sarah Bradburn is a resident of Republic, Washington. She has been a patron of NCRL for 17 years. She will testify at trial primarily about her experiences using the Internet on NCRL computers. In particular, she will testify that NCRL's Internet filter blocked her from viewing Web sites relating to youth tobacco usage. She will also testify that she wishes to have unfiltered Internet access at her local library. Ms. Bradburn's testimony is expected to be consistent with paragraphs 1-5 and 45 of Plaintiffs' Statement of Material Facts in Support of Their Motion for Summary Judgment; paragraphs 41-43 of Plaintiffs' Counterstatement of Facts in Opposition to Defendant's Motion for Summary Judgment; and Ms. Bradburn's deposition testimony in this case. Ms. Bradburn does not have any conflicts with the current trial schedule.

2. Plaintiff Pearl Cherrington

Pearl Ann Cherrington is a resident of Twisp, Washington. She has been a patron of NCRL libraries for over 17 years. She will testify about her experiences accessing the Internet at NCRL. She will testify that NCRL's filter blocked her from viewing Web sites about art and health topics, as well as the video Web site YouTube. She will also testify that she wishes to have unfiltered

**PLAINTIFFS' WITNESS AND
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1 Internet access at her local library. Ms. Cherrington's testimony is expected to be
2 consistent with paragraphs 1, 2, 6-9, 45 and 96 of Plaintiffs' Statement of Material
3 Facts in Support of Their Motion for Summary Judgment; paragraphs 9, 37 and 44-
4 49 of Plaintiffs' Counterstatement of Facts in Opposition to Defendant's Motion
5 for Summary Judgment; and Ms. Cherrington's deposition testimony in this case.
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7 Ms. Cherrington does not have any conflicts with the current trial schedule.
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10 3. Plaintiff Charles Heinlen

11 Charles Heinlen is a resident of Okanogan County, Washington. He has
12 been a patron of NCRL for 37 years. He will testify at trial primarily about his
13 experiences using the Internet on NCRL computers. In particular, he will testify
14 that NCRL's Internet filter blocked him from viewing numerous Web sites, and
15 that NCRL repeatedly refused to disable the filter upon his request. He will also
16 testify that he wishes to have unfiltered Internet access at his local library. Mr.
17 Heinlen's testimony is expected to be consistent with paragraphs 1-2, 10-14 and 45
18 of Plaintiffs' Statement of Material Facts in Support of Their Motion for Summary
19 Judgment; paragraphs 9, 11, 37, 39 and 50-52 of Plaintiffs' Counterstatement of
20 Facts in Opposition to Defendant's Motion for Summary Judgment; and Mr.
21 Heinlen's deposition testimony in this case. Mr. Heinlen does not have any
22 conflicts with the current trial schedule.
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28 PLAINTIFFS' WITNESS AND
EXHIBIT LIST - 3

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1 4. Plaintiff Alan Gottlieb

2 Alan Gottlieb is the Executive Vice President of the Second Amendment
3 Foundation. The Second Amendment Foundation is a not-for-profit education,
4 research, publishing and legal action group focusing on the constitutional right to
5 own and possess firearms. Mr. Gottlieb will testify that the Second Amendment
6 Foundation owns a variety of Web sites. He will testify that NCRL's filter has
7 blocked at least one SAF Web site in the past, and he will testify about his
8 reasonable fear that SAF sites will be blocked again in the future. Mr. Gottlieb's
9 testimony is expected to be consistent with paragraphs 15-23 of Plaintiffs'
10 Statement of Material Facts in Support of Their Motion for Summary Judgment;
11 paragraph 40 of Plaintiffs' Counterstatement of Facts in Opposition to Defendant's
12 Motion for Summary Judgment; and Mr. Gottlieb's deposition testimony in this
13 case. Mr. Gottlieb does not have any conflicts with the current trial schedule.

14 5. Expert Witness: Bennett Haselton

15 Bennett Haselton is an expert on Internet filters whom Plaintiffs retained
16 to test the overblocking rates of the FortiGuard filter. Mr. Haselton will testify as
17 an expert at trial primarily about the purpose, methodology and results of his test of
18 the filter, and about related matters. Mr. Haselton's testimony is expected to be
19 consistent with his expert report (Plaintiffs' Exhibits 53 and 54), which was

20 28 PLAINTIFFS' WITNESS AND
EXHIBIT LIST - 4

1 produced to Defendant on August 3, 2007, and with his deposition testimony in
2 this case. Mr. Hasleton may also provide testimony rebutting the testimony of
3 defense expert Paul Resnick, and testimony consistent with paragraph 22 of
4 Plaintiffs' Counterstatement of Facts in Opposition to Defendant's Motion for
5 Summary Judgment. Mr. Hasleton does not have any conflicts with the current
6 trial schedule.

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8 6. Expert Witness: Pinnell-Stephens

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10 June Pinnell-Stephens was a librarian for 35 years. From 1988 to 2006
11 she served as the Collection Services Manager for the Fairbanks North Star
12 Borough Public Library in Fairbanks, Alaska. Plaintiffs retained Ms. Pinnell-
13 Stephens to testify as an expert about issues such as the role of public libraries in
14 our society, the distinction between collection development and censorship, and
15 alternatives to Internet filtering. Ms. Pinnell-Stephens will testify at trial about
16 those topics and related matters. Her testimony is expected to be consistent with
17 her expert report, which was produced to Defendant on August 3, 2007, and her
18 prior deposition testimony in this case.

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20 Although Ms. Pinnell-Stephens does not have any conflicts with the
21 current trial schedule, she is undergoing back surgery on April 21, 2008, and there
22 is a remote possibility that she will not be sufficiently recovered from her surgery

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28 PLAINTIFFS' WITNESS AND
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1 to be able to travel from Alaska to Richland for a June 2, 2008 trial. Counsel for
2 Plaintiffs will keep the Court and defense counsel apprised of Ms. Pinnell-
3 Stephens' condition as the trial date approaches. Should Ms. Pinnell-Stephens be
4 unable to travel to Richland to testify in person at trial, Plaintiffs would propose
5 that Ms. Pinnell-Stephens be permitted to testify remotely from her home in
6
7 Alaska.

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9 7. Ms. Sally Beesley

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11 Sally Beesley is a librarian, and serves as the Director of the Jefferson
12 County Library District (JCLD) in Madras, Oregon. She will testify about her
13 library's policies, procedures and experiences with regard to Internet filters. She
14 will testify about alternatives to refusing to disable Internet filters at the request of
15 adult library patrons; the JCLD's Internet policies and procedures; how the JCLD's
16 computer terminals have been configured; how the JCLD's Internet policies and
17 procedures have been implemented; her experience working with Internet policies,
18 procedures and filters; and the consequences of providing unfiltered access at
19 JCLD's computers. Ms. Beesley does not have any conflicts with the current trial
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21 schedule.

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28 PLAINTIFFS' WITNESS AND
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8. Mr. Kenton Oliver

Kenton Oliver is a librarian, and serves as the Executive Director of the Stark County District Library (SCDL), headquartered in Canton, Ohio. Mr. Oliver will testify about his library system's policies, procedures, and experiences with regard to Internet filters. He will testify regarding alternatives to refusing to disable Internet filters at the request of adult library patrons; the SCDL's policies and procedures; how the SCDL's computer terminals and filter have been configured; his experience working with Internet policies, procedures, and filters; and the consequences of allowing patrons of the SCDL to bypass the library's Internet filter. Mr. Oliver does not have any conflicts with the current trial schedule.

9. Mr. Dean Marney

Dean Marney is NCRL's Director. He may be called to testify at trial concerning NCRL's mission, organization, operations and policies, including without limitation its Internet filtering policy; the products that NCRL has used to filter Web content; decisions that NCRL has made to block or unblock access to categories and classifications of URLs, and to particular Web sites; unblocking requests received from library patrons; NCRL's Internet Public Use Policy; NCRL's Collection Development Policy; alternatives to full-time filtering for both

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1 children and adults; and related matters. Mr. Marney does not have any conflicts
2 with the current trial schedule.
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4 10. Mr. Dan Howard

5 Dan Howard is Director of Public Services at NCRL. He is responsible
6 for overseeing all of NCRL's 28 branch locations, selecting content for NCRL's
7 collection, and working with Mr. Marney in administering NCRL's Internet filter.
8
9 Mr. Howard may be called to testify at trial concerning NCRL's mission,
10 organization, operations and policies, including without limitation its Internet
11 filtering policy; the products that NCRL has used to filter Web content; decisions
12 that NCRL has made to block or unblock access to categories and classifications of
13 URLs, and to particular Web sites; unblocking requests received from library
14 patrons; NCRL's Internet Public Use Policy; NCRL's Collection Development
15 Policy; alternatives to full-time filtering for both children and adults; and related
16 matters. Mr. Howard does not have any conflicts with the current trial schedule.
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19 11. Ms. Barbara Walters

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21 Barbara Walters is the Information Technology Manager for NCRL. Ms.
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23 Walters was involved in the selection and implementation of NCRL's filter,
24 understands how the filter integrates with NCRL's computer network, and is
25 responsible for its upkeep. Ms. Walters may be called to testify about the products
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28 PLAINTIFFS' WITNESS AND
EXHIBIT LIST - 8

1 that NCRL has used to filter Web content; decisions that NCRL has made to block
2 or unblock access to categories and classifications of URLs, and to particular Web
3 sites; unblocking requests received from library patrons; NCRL's Internet Public
4 Use Policy; NCRL's Collection Development Policy; alternatives to full-time
5 filtering for both children and adults; and related matters. Ms. Walters does not
6
7 have any conflicts with the current trial schedule.

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10 **PLAINTIFFS' EXHIBIT LIST**

Trial Ex. No.	Description	No. of Pages	Date
1	Library Bill of Rights (Dep. Ex. 26)	1	1/23/80 (date of last amendment)
2	North Central Regional Library Collection Development Guidelines and Procedures (Dep. Ex. 44)	10	4/91
3	North Central Regional Library District Branch Library Outlets (1996) (Doc. 31-2, p. 14)	1	1996
4	Minutes of June 10, 1999 meeting of NCRL's Board of Directors (Doc. 57-2, pp. 80-81; NCRL 00277-78)	2	6/10/99

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28 **PLAINTIFFS' WITNESS AND
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Trial Ex. No.	Description	No. of Pages	Date
5	Minutes of August 12, 1999 meeting of NCRL's Board of Directors (Doc. 57-2, pp. 83-84; NCRL 00281-82)	2	8/12/99
6	Minutes of November 17, 1999 meeting of NCRL's Board of Directors (Doc. 57-2, pp. 88-87; NCRL 00296-97)	2	11/17/99
7	Minutes of December 16, 1999 meeting of NCRL's Board of Directors (NCRL 00298)	1	12/16/99
8	Director's Report (Doc. 57-2, p. 89; NCRL 00301)	1	1/13/00
9	Letter from Dean Marney to Nancy Talner (Doc. 57-2, p. 99)	1	3/30/00
10	Letter from Dean Marney to Nancy Talner (Doc. 57-2, p. 100)	1	5/1/00
11	Minutes of May 11, 2000 meeting of NCRL's Board of Directors (Doc. 57-2, pp. 91-92; NCRL 00313-14)	2	5/11/00
12	Letter from Dean Marney to Nancy Talner (Doc. 57-2, p. 101)	1	10/10/00
13	Director's Report (Doc. 57-2, p. 94; NCRL 00334)	1	1/11/01

PLAINTIFFS' WITNESS AND
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Trial Ex. No.	Description	No. of Pages	Date
14	Minutes of January 11, 2001 meeting of NCRL's Board of Directors (Doc. 57-2, pp. 96-97; NCRL 00332-33)	2	1/11/01
15	Letter from Dean Marney to Nancy Talner (Doc. 57-2, pp. 102-03)	1	2/6/01
16	Minutes of January 17, 2002 meeting of NCRL's Board of Directors (NCRL 00362)	1	1/17/02
17	Jefferson County Library District Rules of Conduct (Dep. Ex. 63)	2	4/2/02
18	Jefferson County Library District Computer / Internet Policy (Dep. Ex. 62)	1	5/29/02
19	North Central Regional Library Collection Development Policy (Dep. Ex. 45)	3	1/04
20	Minutes of January 15, 2004 meeting of NCRL's Board of Directors (Dep. Ex. 33; NCRL 00420-21)	2	1/15/04
21	Director's Report (NCRL 00428)	1	4/15/04
22	Minutes of April 15, 2004 meeting of NCRL's Board of Directors (NCRL 00429)	1	4/15/04
23	Memo from Dean Marney to NCRL's Board of Directors (Dep. Ex. 34; NCRL 001152)	1	5/13/04

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Trial Ex. No.	Description	No. of Pages	Date
24	Minutes of May 13, 2004 meeting of NCRL's Board of Directors (Dep. Ex. 35; NCRL 00430-32)	2	5/13/04
25	North Central Regional Library Resolution 04-04 (Dep. Ex. 36; NCRL 01093)	1	5/13/04
26	Press Release, "North Central Regional Library Board of Trustees upholds Internet filtering policy"	2	5/14/04
27	Copy of Email from Dean Marney to Ray Mendiola (Dep. Ex. 37; NCRL 01150-51)	2	10/28/04
28	North Central Regional Library Incident Report (Dep. Ex. 29; NCRL 01598)	1	10/14/05
29	Automation Report (NCRL 00612)	1	12/15/05
30	Email string between Dan Howard and Ken Smith re NCRL's filtering policy (NCRL 01249-50)	2	5/11-12/06
31	NCRL Technology Plan, July 1, 2006 – June 30, 2009 (NCRL 00584-601)	18	7/1/06
32	NLE Quote 23222 (NCRL 01474-75)	2	7/19/06
33	NLE Invoice 33875 (NCRL 01477)	1	8/11/06
34	NLE Invoice 33961 (NCRL 01479-80)	2	9/25/06
35	Complaint for Declaratory and Injunctive Relief (Dep. Ex. 5)	9	11/16/06

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Trial Ex. No. Description	No. of Pages	Date
	36 FortiGuard Protection Profile for NCRL (Dep. Ex. 40)	4	11/21/06
	37 Automation Report (NCRL 00617)	1	12/14/06
	38 Answer and Affirmative Defenses of Defendant North Central Regional Library District	6	1/2/07
	39 Director's Report (NCRL 00516)	1	1/18/07
	40 Email from Barbara Walters to Dan Howard re drugdigest.org (Dep. Ex. 43)	1	1/31/07
	41 Memo from Dan Howard to Dean Marney re Web Translation filtering category, with related documents (Doc. 41-3, pp. 133-37)	5	3/6/07
	42 FortiGuard Filtering 3-7-07 (Doc. 41-3, pp. 138-41)	4	3/7/07
	43 Memo from Dan Howard to Dean Marney re Plagiarism filtering category (Doc. 41-3, p. 129)	1	3/14/07
	44 FortiGuard Filtering 3-14-07 (Doc. 41-3, pp. 130-32)	3	3/14/07
	45 Letter from Dan Howard to Steve Brown re blocked Web sites (Dep. Ex. 48)	1	3/21/07

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Trial Ex. No.	Description	No. of Pages	Date
	46	Email string between Barbara Walters, Judy Johnston and Dan Howard re blocking of image search Web sites (Dep. Ex. 50)	2	4/2-3/07
	47	Stark County District Library Internet and Computer Use Policy, (Dep. Ex. 52)	2	4/17/07 (policy's effective date)
	48	Email from Gailene to Dan Howard (Dep. Ex. 32)	1	4/26/07
	49	Email string between Dan Howard and Dean Marney re blocking Personal Relationships filtering category (Dep. Ex. 47)	1	5/16/07
	50	NCRL Filtering Policy 5-15-07 (Dep. Ex. 39)	5	5/17/07
	51	Table listing NCRL branches and computer equipment (Dep. Ex. 27)	1	5/23/07
	52	Defendant's Responses to Plaintiffs' First Interrogatories and Requests for Production (without exhibits)	17	6/18/07
	53	Report of Accuracy Rate of FortiGuard Filter, prepared by Bennett Haselton (without Appendix A) (Dep. Ex. 21)	101	8/3/07

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Trial Ex. No. Description	No. of Pages	Date
	54 Appendix A to Report of Accuracy Rate of FortiGuard Filter, prepared by Bennett Haselton (Docs. 41-6, 41-7)	113	8/3/07
	55 Printout of NCRL policies, available at http://www.ncrl.org/resources/policy.html (Dep. Ex. 4)	15	8/12/07 (date printed)
	56 Plaintiff Charles Heinlen's Objections, Answers and Responses to Defendant's First Interrogatories and Requests for Production to Plaintiff Charles Heinlen (Dep. Ex. 7)	16	8/13/07
	57 FortiGuard Protection Profile for NCRL (Dep. Ex. 38)	3	10/15/07
	58 FortiGuard Protection Profile for NCRL, with 12/19/07 update (Doc. 33-2, pp. 13-16)	4	10/15/07, 12/19/07
	59 Printout of FortiGuard Web Filtering Service, available at http://www.fortinet.com/products/web_filtering.html (Dep. Ex. 56)	2	1/16/08 (date printed)
	60 Printout of FortiGuard Center, available at http://www.fortiguardcenter.com/webfiltering/webfiltering2.html (Dep. Ex. 57)	1	1/16/08 (date printed)

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Trial Ex. No. Description	No. of Pages	Date
	61 List of FortiGuard filtering categories and descriptions, available at http://www.fortiguardcenter.com/webfiltering/webfiltering_categories2.html (Doc. 33-2, pp. 18-22)	5	2/1/08 (date printed)
	62 Printout of MySpace splash page, available at http://www.myspace.com , and splash pages of MySpace pages of major presidential candidates (Doc. 41-9, pp. 615-22)	8	2/4/08 (date printed)
	63 MySpace.com Terms of Use Agreement, available at http://www.myspace.com/index.cfm?fuseaction=misc.Terms (Doc. 41-9, pp. 624-31)	8	2/4/08 (date printed)
	64 Printouts of splash pages of Web sites blocked by NCRL's filter (Doc. 57-3, pp. 105-20)	16	2/25/08 (date printed)
	65 Excerpts from 2002 and 2007 NCRL budgets (mission and values statements) (Dep. Ex. 28; NCRL 00140, 00144, 00241, 00246)	4	Various (2002, 2007)

PLAINTIFFS' WITNESS AND EXHIBIT LIST - 16

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Trial Ex. No.	Description	No. of Pages	Date
66 Def. Ex. 705	Material Selection Review Forms, emailed unblocking requests, and related internal and external correspondence	Several hundred	Various
67	NCRL Overview (NCRL 01114)	1	None
68	Material Selection Review Form (Dep. Ex. 2; NCRL 01098)	1	None
69	North Central Regional Library Internet Public Use Policy (NCRL 01097, Dep. Ex. 3)	1	None
70	SmartFilter, Bess Edition filtering categories, with handwritten notations indicating which categories NCRL was filtering (NCRL 01236-41)	6	None
71	List of FortiGuard filtering categories and descriptions (Dep. Ex. 41)	5	None
72	Tabulated data regarding computer sessions at NCRL branches in May 2007 (Dep. Ex. 42)	12	None
73	North Central Regional Library and the Balanced Scorecard (Dep. Ex. 46)	4	None
74	Letter from Dan Howard to Amy and B. J. Moore re MySpace (Dep. Ex. 49)	1	None

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Trial Ex. No.	Description	No. of Pages	Date
75	Report regarding error rates of NCRL's FortiGuard filter, prepared by Paul Resnick (without appendices) (Dep. Ex. 54)	21	None
76	Table summarizing unblocking requests received by NCRL between 10/1/07 and 2/20/08 (Doc. 57-4, pp. 338-50)	13	None

DATED this 24th day of March, 2008.

AMERICAN CIVIL LIBERTIES UNION
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PLAINTIFFS' WITNESS AND
EXHIBIT LIST - 18

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PLAINTIFFS' WITNESS AND
EXHIBIT LIST - 19

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2008, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the persons listed below:

Thomas D. Adams
Celeste Mountain Monroe
KARR TUTTLE CAMPBELL
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Attorneys for Defendant

DATED this 24th day of February, 2008.

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PLAINTIFFS' WITNESS AND
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